

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Wendy Lougee O'Brien

v.

Civil No. 12-cv-443-JD

Loreen Lougee Kline, et al.

O R D E R

Wendy Lougee O'Brien brought suit against family members, Robert B. Donovan, Esq., and the law firm of Donahue, Tucker & Cindella, PLLC, alleging claims that arose from alleged errors in the Lougee I Realty Trust ("Trust"). O'Brien's motion to appoint a guardian ad litem for her mother, Glenna Lougee, who is a defendant in this case, was granted on April 22, 2013. Attorney Thomas M. Pappas was appointed as guardian ad litem.

Pappas has filed a partially assented to motion to enter into a settlement agreement on behalf of Glenna Lougee. The family defendants all assent to the motion. Donovan and the law firm did not assent to the motion but instead "take no position" and have stated that they will not file a response to the motion.

As in this case, the court must "appoint a guardian ad litem--or issue another appropriate order--to protect a minor or incompetent person who is unrepresented in an action." Fed. R. Civ. P. 17(c)(2). "A guardian ad litem is authorized to act on behalf of his ward and make all appropriate decisions in the

course of the specific litigation. The guardian may . . . settle the claim on behalf of his ward." Thomas v. Humfield, 916 F.2d 1032, 1033 (5th Cir. 1990) (internal quotation marks omitted); accord Zolnierz v. Arpaio, 2013 WL 253870, at *3 (D. Ariz. Jan. 23, 2013); Scannavino v. Flor. Dep't of Corrs., 242 F.R.D. 662, 667 (M.D. Fl. 2007).

The proposed settlement resolves the disputes among the family members about property conveyed to and through the Trust and the parties' shares of that property. Under the terms of the proposed settlement, some property will be conveyed from family members to Wendy O'Brien and her husband for agreed amounts and some property will be sold to abutters or others. That arrangement will result in Glenna Lougee receiving "a one-year balloon note" in the amount of \$235,000, with monthly interest only payments for one year. O'Brien and her husband agree to release their claims against the other family members, including Glenna Lougee.

As proposed, the settlement appears to be in Glenna Lougee's best interests. The settling parties all assent to the motion for authority to enter into the settlement. The guardian ad litem is authorized to enter into the settlement on behalf of Glenna Lougee.

Conclusion

For the foregoing reasons, the partially assented to motion for authority to enter into the proposed settlement (document no. 63) is granted.

SO ORDERED.



Joseph A. DiClerico, Jr.
United States District Judge

June 18, 2013

cc: Christopher D. Hawkins, Esquire
Edward K. O'Brien, Esquire
Thomas J. Pappas, Esquire
Thomas R. Walker, Esquire